

SB 366 INTRODUCED BY MEYER, TVEIT, FARRELL, ET AL.
GROSS VEHICLE WEIGHT OFFICER'S STATUS CHANGED FROM
PEACE OFFICER TO PUBLIC SERVANT
BY REQUEST OF SENATE COMMITTEE ON HIGHWAYS &
TRANSPORTATION

2/18 INTRODUCED
2/18 REFERRED TO HIGHWAYS & TRANSPORTATION
2/18 FISCAL NOTE REQUESTED
2/21 HEARING
2/23 FISCAL NOTE RECEIVED
2/23 ADVERSE COMMITTEE REPORT ADOPTED
AS AMENDED

41 6

1 *Senate* BILL NO. *366*
 2 INTRODUCED BY *Meyer* *Truit* *Furnell* *Hager*
 3 BY REQUEST OF THE SENATE COMMITTEE ON HIGHWAYS *Hogman*
 4 AND TRANSPORTATION *Walt* *Black*
 5 *Bunker*

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE AUTHORITY
 7 OF DEPARTMENT OF HIGHWAYS EMPLOYEES DESIGNATED TO ENFORCE
 8 GROSS VEHICLE WEIGHT LAWS BY LIMITING THEIR AUTHORITY TO THE
 9 ISSUANCE OF NOTICES TO APPEAR AND BY DESIGNATING THEM AS
 10 PUBLIC SERVANTS RATHER THAN PEACE OFFICERS; AMENDING
 11 SECTIONS 61-10-141, 61-12-201, 61-12-202, 61-12-204, AND
 12 61-12-206 THROUGH 61-12-208, MCA; AND REPEALING SECTION
 13 61-12-203, MCA."

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 NEW SECTION. Section 1. Certain employees designated
 16 public servants. An employee of the department appointed
 17 under 61-12-201 is a public servant for the purpose of
 18 determining the offense of obstructing a public servant as
 19 provided in 45-7-302.

20 Section 2. Section 61-10-141, MCA, is amended to read:
 21 "61-10-141. Officers and department of highways
 22 employees authorized to weigh vehicles and require removal
 23 of excessive loads -- enforcement of motor carrier safety
 24 standards. (1) A peace officer, officer of the highway
 25

1 patrol, or employee of the department may weigh any vehicle
 2 regulated by 61-10-101 through 61-10-110, either by means of
 3 portable or stationary scales, and may require that the
 4 vehicle be driven to the nearest scales if those scales are
 5 within 2 miles. That person may then require the driver to
 6 unload immediately that portion of the load necessary to
 7 decrease the weight of the vehicle to conform to the maximum
 8 allowable weights specified in 61-10-101 through 61-10-110.

9 (2) Commodities and material unloaded as required by
 10 this section shall be cared for and removed from the highway
 11 right-of-way by the owner or operator of the vehicle at the
 12 risk of that owner or operator. The removal shall be within
 13 a reasonable time designated by the person who has compelled
 14 the unloading.

15 (3) The department may establish, maintain, and
 16 operate weigh stations, either intermittently or on a
 17 continuous schedule, and may require vehicles, except
 18 passenger cars and pickup trucks under 8,000 pounds G.V.W.,
 19 to enter for the purpose of weighing and inspection for
 20 compliance with all laws pertaining to their operation and
 21 safety requirements.

22 (4) The department shall work with the highway patrol
 23 in the enforcement of safety standards adopted pursuant to
 24 44-1-1005. For the purposes of such joint enforcement, the
 25 highway patrol is designated as the lead agency. The highway



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1 patrol and the department shall cooperate to assure minimum
2 duplication and maximum coordination of enforcement effort.

3 (5) ~~In order to~~ Department employees appointed under
4 61-12-201 may enforce compliance with safety standards
5 adopted pursuant to 44-1-1005, ~~the department shall~~
6 ~~designate employees as peace officers.~~ The designated
7 employees must be employed in the administration of the
8 gross vehicle weight functions of the department. Each
9 employee so designated ~~as a peace officer~~ may:

10 (a) ~~issue citations and make arrests~~ notices to appear
11 in connection with violations of safety standards adopted
12 under 44-1-1005;

13 (b) ~~issue summons~~ detain offenders for a reasonable
14 time for the purpose of issuing notices to appear;

15 (c) accept bail bond;

16 ~~(d) serve warrants for arrest;~~

17 ~~(e)~~ (d) make reasonable inspections of cargo carried by
18 commercial motor vehicles;

19 ~~(f)~~ (e) make reasonable safety inspections of
20 commercial motor vehicles utilized by motor carriers; and

21 ~~(g)~~ (f) require production of documents relating to the
22 cargo, driver, routing, or ownership of such vehicles.

23 ~~(6) in addition to other enforcement duties assigned~~
24 ~~under this section, an employee of the department has the~~
25 ~~same authority to enforce provisions of the motor carriers~~

1 ~~law as that granted the public service commission under~~
2 ~~69-12-203."~~

3 Section 3. Section 61-12-201, MCA, is amended to read:

4 "61-12-201. Appointment of employees ~~as peace~~
5 ~~officers.~~ The director of highways may appoint employees of
6 the department ~~as peace officers~~ to carry out this part. The
7 employees appointed may include only those employees of the
8 department who are employed in the administration of the
9 gross vehicle weight functions of the department. Each
10 employee appointed shall be issued a certificate of
11 appointment ~~and execute an oath of office~~ which shall be
12 entered into the records of the department."

13 Section 4. Section 61-12-202, MCA, is amended to read:

14 "61-12-202. Training of department ~~peace officers~~
15 ~~employees~~ -- rules. (1) The department shall provide such
16 training as required to qualify those employees to
17 competently perform their duties under this part and shall
18 adopt such rules as are required and necessary for
19 qualification of those employees ~~as peace officers.~~

20 (2) An employee may not ~~make arrests~~ issue notices to
21 appear until he has successfully completed such training as
22 required by the department."

23 Section 5. Section 61-12-204, MCA, is amended to read:

24 "61-12-204. Identification badge and uniform.
25 Employees of the department engaged in the enforcement of

1 this part shall wear and prominently display an
 2 identification badge-or device with the employee's name and
 3 title shown on the identification badge--or device. The
 4 department may authorize uniform dress for department
 5 employees engaged in such enforcement."

6 Section 6. Section 61-12-206, MCA, is amended to read:
 7 "61-12-206. Offenses for which arrest notices to
 8 appear authorized -- authority to stop vehicles. (1)
 9 Employees appointed under 61-12-201 may make-arrests issue
 10 notices to appear for violations of the following statutory
 11 provisions only:

- 12 (a) part 1, chapter 10, of this title;
- 13 (b) part 3, chapter 4, of this title;
- 14 (c) sections 15-24-201 through 15-24-205;
- 15 (d) sections 15-70-302 through 15-70-307;
- 16 (e) sections 15-70-311 through 15-70-314;
- 17 (f) section 61-3-502(1);
- 18 (g) sections 61-10-201 through 61-10-215;
- 19 (h) sections 61-10-222 through 61-10-224;
- 20 (i) sections 61-10-231 through 61-10-233.

21 (2) These employees may not arrest issue notices to
 22 appear for violations other than specified in this section.

23 (3) When driving an official vehicle equipped with
 24 alternately flashing or rotating red and blue lights, these
 25 employees may require any vehicle except passenger cars and

1 pickup trucks under 8,000 pounds gross weight to stop for
 2 the purpose of weighing or inspection for compliance with
 3 laws pertaining to their operation and safety requirements."

4 Section 7. Section 61-12-207, MCA, is amended to read:
 5 "61-12-207. Cooperation with other agencies. Such
 6 employees of the department shall cooperate with other ~~law~~
 7 enforcement agencies."

8 Section 8. Section 61-12-208, MCA, is amended to read:
 9 "61-12-208. Duty upon making--an--arrest issuing a
 10 notice to appear -- power to fix and accept bait bond. Such
 11 employees, upon making-an-arrest issuing a notice to appear,
 12 shall deliver to the offender ~~a--form--of~~ the notice to
 13 appear, describing the nature of the offense, with
 14 instructions on the notice for the offender to report to the
 15 nearest justice of the peace in the same county. The
 16 employee may accept a deposit for appearance justifiable for
 17 the offense charged. The person-arrested offender may be
 18 detained for a reasonable time for the purpose of issuing
 19 the notice. If the employee accepts bait bond, he shall
 20 give a signed receipt to the offender, setting forth the
 21 amount received. The employee shall then deliver the bait
 22 bond money to the justice of the peace before whom the
 23 offender is to appear, and the justice of the peace shall
 24 give a receipt to the employee for the amount of bait bond
 25 money delivered. After the filing of the complaint and

1 appearance of the defendant, the justice of the peace shall
2 assume jurisdiction and may set and accept further
3 appearance ~~bait~~ bond."

4 NEW SECTION. Section 9. Repealer. Section 61-12-203,
5 MCA, is repealed.

6 NEW SECTION. Section 10. Extension of authority. Any
7 existing authority of the department of highways to make
8 rules on the subject of the provisions of this act is
9 extended to the provisions of this act.

10 NEW SECTION. Section 11. Codification instruction.
11 Section 1 is intended to be codified as an integral part of
12 Title 61, chapter 12, part 2, and the provisions of Title
13 61, chapter 12, part 2, apply to section 1.

-End-